THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11220 of 2006

Dated: 09.06.2006

Between

Avula Vara Prasad

…..Petitioner

and

1. The Deputy Registrar of Co-op Societies,
   Machilipatnam, Krishna District
   and another.

….Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11220 of 2006

ORDER:

This writ petition is filed complaining that during the pendency of the Petition No.218 of 2005 on the file of the 1st respondent, a petition filed for impleading the legal heirs of the original petitioner, who died immediately after filing the claim petiton, was returned with an endorsement that "Return to submit with LR certificate from competent authority before 12.04.2006 by 11.30A.M".

It is the contention of the petitioner that the application to implead the legal heirs ought not to have been returned simply saying to produce legal heir certificate. It is for the quasi-judicial authority to apply its mind to the facts of the case after filing objections by the other side, if necessary and then, to decide the matter as per law. It cannot just return saying that the petitioner shall file LR certificate. There is no necessity of filing LR certificate issued by any authority and it is for the authority to decide the matter as per law. Insofar as the applicability of the provision is concerned, the learned counsel for the petitioner relied upon the decision reported in ***M.Chandrasekhara Reddy vs., The Deputy Registrar of Co-op Societies, Gudur, Nellore District and others,*** wherein it is held that

> "*A reading of Rule 52 shows that it is framed akin to Order XXI of the Civil Procedure Code and the provisions of Civil Procedure Code as applicable to the Civil Court are not excluded.*"

In view of the above, the endorsement made by the respondent returning the petition on 10.4.2006 is set aside and the 1st respondent is directed to entertain the application and decide

the same as per law after giving opportunity to the parties.

According, the writ petition is allowed. No costs.

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09-06-2006

rkk